INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] *(Division 2 enacted by Stats. 1935, Ch. 145.)*

PART 6. INSURANCE COVERING LAND [12340 - 12661] *(Part 6 enacted by Stats. 1935, Ch. 145.)*

CHAPTER 1. Title Insurance [12340 - 12418.4] *(Chapter 1 enacted by Stats. 1935, Ch. 145.)*

ARTICLE 1. Definitions [12340 - 12342] *(Article 1 repealed and added by Stats. 1973, Ch. 1130.)*

12340. The definitions set forth in this article shall govern the construction of the terms used in this chapter, but shall not affect any other provisions of this code.

(Repealed and added by Stats. 1973, Ch. 1130.)

12340.1. “Title insurance” means insuring, guaranteeing or indemnifying owners of real or personal property or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of:

(a) Liens or encumbrances on, or defects in the title to said property;

(b) Invalidity or unenforceability of any liens or encumbrances thereon; or

(c) Incorrectness of searches relating to the title to real or personal property.

(Added by Stats. 1973, Ch. 1130.)

12340.2. “Title policy” means any written instrument or contract by means of which title insurance liability is assumed.

(Added by Stats. 1973, Ch. 1130.)

12340.3. “Business of title insurance” includes:

(a) Issuing or proposing to issue any title policy as insurer, guarantor, or indemnitor;

(b) Transacting or proposing to transact any phase of title insurance, including solicitation, negotiation preliminary to execution, or execution of a title policy, insuring and transacting matters subsequent to the execution of a title policy and arising out of such policy, excluding reinsurance;

(c) The performance by a title insurer, an underwritten title company or a controlled escrow company of any service in conjunction with the issuance or contemplated issuance of a title policy including but not limited to the handling of any escrow, settlement or closing in connection therewith; or the doing of or proposing to do any business, which is in substance the equivalent of any of the above.

(d) The issuance, by a title insurer, of a letter of indemnity. Any such letter of indemnity shall be limited to and issued solely for the purpose of indemnifying the commissioner on behalf of any member of the public who transacts an escrow with an underwritten title company, with whom the title insurer has an underwriting agreement. A title insurer may charge a reasonable fee in connection with the issuance of any such letter. No rate or form filing shall be required with respect to any such letter of indemnity.

(e) The act of an insurer in furnishing in writing to a prospective purchaser of the insurer’s title policy a statement which assures, and assumes the liability for, the proper performance of services necessary to the conduct of a real estate closing performed by an underwritten title company with whom the insurer maintains an underwriting agreement. A title insurer may charge a reasonable fee in connection with the furnishing of any such statement. No rate or form filing shall be required with respect to any such statement.

(Amended by Stats. 1981, Ch. 479, Sec. 1.)

12340.4. “Title insurer” means any company issuing title policies as insurer, guarantor or indemnitor.

“Domestic title insurer” means any title insurer organized under the laws of this state.

“Foreign title insurer” means any title insurer organized under the laws of any other jurisdiction.

(Added by Stats. 1973, Ch. 1130.)

12340.5. "Underwritten title company" means any corporation engaged in the business of preparing title searches, title examinations, title reports, certificates or abstracts of title upon the basis of which a title insurer writes title policies.

(Added by Stats. 1973, Ch. 1130.)

12340.6. (a) "Controlled escrow company" means any person, other than a title insurer or underwritten title company, whose principal business is the handling of escrows of real property transactions in connection with which title policies are issued, which person, if an artificial person, directly or indirectly, is controlled by, controls, or is under common control with a title insurer, or controls, is controlled by, or is under common control with an underwritten title company, or, if a natural person, is employed by, or controlled by, a title insurer or by an underwritten title company. As used in this section, the term "control" has the meaning set forth in subdivision (c) of Section 1215.

(b) Except for Article 6 (commencing with Section 12404), this section does not apply to any person or entity doing business under any law of this state or the United States relating to banks or savings and loan associations.

(Amended by Stats. 2017, Ch. 417, Sec. 31. (AB 1696) Effective January 1, 2018.)

12340.7. Except as provided in Section 12401.8, and excluding miscellaneous charges, "rate" or "rates" means the charge or charges, whether denominated premium or otherwise, made to the public by a title insurer, an underwritten title company or a controlled escrow company, for all services it performs in transacting the business of title insurance. As used in this section miscellaneous charges means conveyancing fees, notary fees, inspection fees, tax service contract fees and such other fees as the commissioner by regulation may prescribe.

(Added by Stats. 1973, Ch. 1130.)

12340.8. "Advisory organization" means every person or entity (other than a title insurer, underwritten title company, or controlled escrow company) which recommends or prepares policy forms or endorsements, or procedural manuals (but not including the making of rates, rating plans, or rating systems), or which collects and furnishes to its members or insurance supervisory officials loss and expense statistics or other statistical information and data relating to the business of title insurance and who otherwise acts in an advisory, as distinguished from a ratemaking, capacity. No duly authorized attorney at law acting in the usual course of his profession nor any entity engaging in the above activity on a nationwide basis shall be deemed to be an advisory organization.

(Amended by Stats. 1992, Ch. 991, Sec. 1. Effective January 1, 1993.)

12340.9. "Willful" or "willfully" in relation to an act or omission which constitutes a violation of this chapter means with actual knowledge or belief that such act or omission constitutes such violation and with specific intent to commit such violation.

(Added by Stats. 1973, Ch. 1130.)

12340.10. "Abstract of title" is a written representation, provided pursuant to a contract, whether written or oral, intended to be relied upon by the person who has contracted for the receipt of such representation, listing all recorded conveyances, instruments or documents which, under the laws of this state, impart constructive notice with respect to the chain of title to the real property described therein. An abstract of title is not a title policy as defined in Section 12340.2.

(Added by Stats. 1981, Ch. 55, Sec. 1.)

12340.11. "Preliminary report", "commitment", or "binder" are reports furnished in connection with an application for title insurance and are offers to issue a title policy subject to the stated exceptions set forth in the reports and such other matters as may be incorporated by reference therein. The reports are not abstracts of title, nor are any of the rights, duties or responsibilities applicable to the preparation and issuance of an abstract of title applicable to the issuance of any report. Any such report shall not be construed as, nor constitute, a representation as to the condition of title to real property, but shall constitute a statement of the terms and conditions upon which the issuer is willing to issue its title policy, if such offer is accepted.

(Added by Stats. 1981, Ch. 55, Sec. 2.)

12340.13. "Business location" means a facility or other place of business in this state where an underwritten title company or controlled escrow company engages in the business of conducting escrow services.

(Added by Stats. 2015, Ch. 370, Sec. 1. (AB 704) Effective January 1, 2016.)

12342. For purposes of this chapter, "holders of liens or encumbrances" includes, but is not limited to, the institutional third parties described in Sections 1452 and 1717 of Title 12 of the United States Code.

(Added by Stats. 1995, Ch. 433, Sec. 1. Effective January 1, 1996.)